

**Speech-Language Pathology and Audiology Board**

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**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
Kensington Park Hotel
450 Post Street
“Sherwood Room”
San Francisco, CA
April 15, 2004
SPEECH-LANGUAGE PATHOLOGY PRACTICE COMMITTEE
MEETING MINUTES**

Committee Members Present

James Till, Ph.D., Chairperson
Bruce Gerratt, Ph.D.
Alison Grimes, AuD

Committee Members Absent

Vivian Shannon, M.A.
Paul Donald, M.D.
Sherry Washington, M.A.

Board Members Present

Rebecca Binge, M.A.
Marcia Raggio, Ph.D.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Candace Raney, Staff Analyst
Lori Pinson, Staff Analyst
Bob Miller, Legal Counsel

Guests Present

Jim Cannon, SLP Counseling Pacific Medical Center
Dennis Van Vleit, AU
Jan Speirs, SLP Scripps Hospital
Robert Powell, California Speech-Language-Hearing Association
Ed Dunlay, The Chattanooga Group
Lisa Harvey, Compliance Director SunDance Rehabilitation
Jill Hernandez, SLP Manager SunDance Rehabilitation
Jeff Hansen, Board of Occupational Therapy

I. Call to Order

Chairperson Till called the meeting to order at 5:11 p.m.

II. Introductions

Those present introduced themselves.

III. Discussion of Speech-Language Pathologists' Role in Supervising Occupational Therapists for Advanced Practice Certification in “Swallowing Assessment, Evaluation, or Intervention.”

Chairperson Till introduced the legal opinion developed by Mr. Ritter and quoted the conclusion of the opinion regarding the legal parameters for speech-language pathologists to supervise occupational therapists (OTs) while conducting swallowing assessment, evaluation, or intervention. Mr. Ritter, Senior Staff Counsel, opined that “Occupational

Therapists who wish to obtain on the job training under the supervision of a speech-language pathologist must be registered with the Board as speech-language pathology aides.

Ms. Del Mugnaio stated that she shared the opinion with Gretchen Kjose, the Executive Officer of the Board of Occupational Therapy and stated that Ms. Kjose provided her with recent statistics on the number of OTs who had been issued advanced practice certifications. Ms. Del Mugnaio stated that the statistics provided by Ms. Kjose included swallowing specific certifications and also certifications that encompassed swallowing and hand therapy and/or physical agent modalities. She reported that a total of 245 certifications had been issued that included swallowing independently or in combination with another advanced practice. The statistical breakdown was as follows: 190 swallowing; 7 swallowing and physical agent modalities; 35 swallowing, hand therapy, and physical agent modalities; and 13 swallowing and hand therapy.

Ms. Del Mugnaio explained that although the Occupational Therapy law authorizes OTs with advanced practice certifications to participate in swallowing treatment, the development and disorders of swallowing is included in the Speech-Language Pathologists and Audiologists Practice Act which requires that any person working under the supervision of a speech-language pathologist be registered with the Board as a speech-language pathology aide. She further stated that the Occupational Therapy law does not supercede the "Act."

Ms. Speirs inquired about the process with which the OTs who were recently granted advanced practice certifications in swallowing were evaluated and who signed-off on the OTs documentation certifying their competence in assessing or treating swallowing disorders.

Mr. Hansen replied that OTs who were issued advanced practice certifications were evaluated based on equivalent qualifications in terms of prior in-service training and work experience. He also stated that physicians or speech-language pathologists certified the equivalent experience, and that OTs with advanced practice certifications can also certify training for other OTs.

Mr. Powell inquired about the number of speech-language pathologists who may be currently supervising occupational therapists to obtain the required professional experience in swallowing and how the recent opinion may affect the supervision protocol.

Ms. Del Mugnaio stated that she asked Ms. Kjose whether she was aware of any speech-language pathologists currently supervising OTs to obtain the required professional experience in swallowing, and she replied that she did not know of any specific cases.

M/S/C: Gerratt/Grimes

The Committee voted to recommend to the Board to adopt the legal opinion written by Mr. Ritter regarding the supervision of occupational therapists by speech-language pathologists.

IV. Legal Analysis of Speech-Language Pathologists Utilizing Electrical Stimulation for Treatment of Swallowing Disorders (George Ritter)

Chairperson Till referenced the legal opinion written by Mr. Ritter regarding the use of electrical stimulation by speech-language pathologists to treat swallowing disorders, and stated that the conclusion of the opinion is that electrical stimulation therapy for swallowing appears to be within the practice of a speech-language pathologist. The opinion further states that the current statutory provisions do not explicitly prohibit the use of other instrumental procedures besides the use of endoscopes. He referenced Mr. Ritter's conclusion wherein he states that, "The greater challenge for the Board will be to insure that licensees who utilize this procedure do so in a competent and safe manner."

Ms. Del Mugnaio referenced the additional documentation provided to the Board for review that included a research article by Humbert and Ludlow and an extensive packet from Teresa Biber, a speech-language pathologist who trains and educates practitioners on the use of electrical stimulation for swallowing using the NT2000 device.

Mr. Dunlay addressed the Board and stated that he is aware of only one electrical stimulation device, Vital Stim, that can be applied to the neck to treat swallowing and which is approved by the Federal Drug Administration from the standpoint of marketing and labeling.

Ms. Del Mugnaio stated that even though legal counsel concluded that the use of electrical stimulation for swallowing is within the scope of practice of speech-language pathologists, he did not conclude that every licensed speech-language pathologist is adequately trained or competent to use this modality. She stated that the message to the practitioner should be clear in that licensees are governed by professional conduct provisions which prohibits them from engaging in any professional activity that they are not competent to perform or which may place their clients at significant risk. She stated that the issue before the Board is whether further regulation of electrical stimulation for swallowing is appropriate or necessary to protect consumers. She noted that the Board has not received any consumer complaints regarding speech-language pathologists using electrical stimulation for swallowing. She stated that the issue was brought before the Board by the California Physical Therapy Association and by Ms. Washington as both parties were concerned with the limited education and training, such as, (weekend continuing education courses) that speech-language pathologists are exposed to before using the modality.

Ms. Speirs stated that the argument surrounding the lack of training at the university training program level should not be a basis for assessing adequate exposure to information, as swallowing curriculum was not taught in many of the speech-language pathology training programs until as recently as five years ago. She further stated that the training is important and that the existing training does cover safety issues and the general principals of applying electrical stimulation. Ms. Speirs explained that the physical therapy literature concludes that the use of electrical stimulation promotes muscle strength in type 2 muscle fibers. She suggested that the muscles of swallowing incorporate a number of type 2 muscle fibers that respond well to electrical stimulation. She also cited articles that have documented improved laryngeal elevation. She stated that the anecdotal information

and physical therapy research has shown that the use of electrical stimulation promotes muscle elevation and the functional impact of improved swallowing.

Mr. Gerratt stated that there is not conclusive scientific evidence to support the theory that electrical stimulation improves swallowing function.

Chairperson Till stated that it appears the Committee is in agreement that the use of electrical stimulation is within the practice of a speech-language pathologist, however, the remaining issue is whether additional regulation of the modality is necessary. He posed the question before the Committee, "Are the existing professional conduct provisions, which enforce that practitioners should perform only those procedures for which they are adequately trained and skilled to perform, sufficient to protect the consumers regarding this method of treatment?"

Ms. Raggio referenced the parallel situation within the Medical Practices Act wherein licensed physicians are able to perform surgery for any given medical condition. However, physicians are bound by ethical conduct provisions which prohibit them from participating in medical procedures in which they are not trained or skilled. She stated that the same professional responsibility exists in the electrical stimulation situation.

The Committee discussed at length the legal parameters of the unprofessional conduct provisions.

Chairperson Till stated that the Board should carefully consider the nature of the training it may be advocating to the profession, and that the legal guidance provided by the Board should be generic in terms of products and training, and should focus on safety issues and consumer access.

Mr. Miller stated that another issue that comes to mind with a "new" modality or one that has not been documented by evidenced-based research is that the practitioner should obtain an informed consent from the patient so that the patient is aware that the technique is experimental.

M/S/C Gerratt/Grimes

The Committee voted to recommend to the Board to adopt the legal opinion by Mr. Ritter who concluded that electrical stimulation therapy for swallowing is within the scope of practice of speech-language pathologists. The Committee further voted to recommend that a draft cautionary statement be developed to include information regarding the legal opinion and the relevant unprofessional conduct provisions which will be made available for public comment at the July 15, 2004 Speech-Language Pathology Practice Committee meeting.

V. Legal Analysis of Speech-Language Pathologists Performing "Suctioning" – (George Ritter)

Chairperson Till referenced the February 27, 2004 legal memorandum and the May 2, 2002 legal opinion written by Mr. Ritter wherein he concluded that deep suctioning is not within the scope of practice of speech-language pathology.

Ms. Speirs stated that she believed that since the endoscopy legislation authorized speech-language pathologists to engage in a procedure that was deemed invasive, that suctioning would also be permitted. She further stated that during swallow therapy, it is an issue of patient safety that a speech-language pathologist be allowed to do deep suctioning.

Ms. Del Mugnaio explained that the legislative bill that enacted the provisions authorizing speech-language pathologists to perform endoscopic procedures was amended a few times before it was adopted and that one version of the bill provided the Board with the authority to craft regulations to further define other instrumental procedures. However, that language was subsequently deleted and the final version of the bill did not provide additional statutory authority for the Board to further expand on the use of other invasive instrumental procedures.

Ms. Speirs inquired whether all instrumental procedures that are deemed invasive must be somehow regulated by the Board.

Mr. Miller responded that some health care practitioners may engage in activities that are within the scope of practice of another healing arts profession if the practitioner is under the direct supervision of a licensed practitioner from the other discipline. For example, podiatrists are not authorized to perform surgery above the ankle however podiatrists do serve as surgical assistants to surgeons performing such operations.

Mr. Powell indicated that the California Speech-Language-Hearing Association may be interested in carrying clean-up legislation to include deep suctioning as a procedure within the scope of practice of a speech-language pathologist.

Chairperson Till suggested that further discussion on the matter may be necessary in that he has heard of abuses by speech-language pathologists performing deep suctioning and that, conversely, he has heard that other health care practitioners are refusing to perform suctioning for a patient being treated by a speech-language pathologist.

M/S/C Gerratt/Grimes

The Committee voted to recommend to the Board to adopt the legal opinion written by Mr. Ritter, which concluded that the existing statutory provisions do not authorize speech-language pathologists to perform deep suctioning.

There being no further discussion, Chairperson Till adjourned the meeting at 6:00 p.m.

Annemarie Del Mugnaio, Executive Officer